

# memorandum

DATE: September 1, 2000

REPLY TO

ATTN OF: Office of Environmental Policy and Guidance:Banicki:65193

SUBJECT: Availability of Clean Air Act Implementation Guidance for the General Duty Clause to Prevent Accidental Hazardous Substance Releases

TO: Distribution

In May 2000, the Environmental Protection Agency (EPA) issued a guidance document entitled, *Guidance for Implementation of the General Duty Clause: Clean Air Act Section 112(r)(1)* (EPA document # 550-B00-002), for use by EPA inspectors/auditors/investigators to develop programs to increase compliance with the General Duty Clause (GDC). This guidance document can be accessed on the EPA website at: <http://www.epa.gov/ceppo/pubs/gdcregionalguidance.pdf>. The guidance suggests approaches to increase compliance, and provides examples of tools for conducting an investigation and for evaluating programs. Chapter Three of the guidance, "Evaluating Prevention and Release Mitigation Programs" should be useful to facility owners and operators since they have primary responsibility to prevent chemical accidents. Sections of this chapter, specifically "Measure of Prevention and Preparedness/Compliance with the General Duty Clause" and "Hazard Identification Checklist" should enable owners/operators to evaluate their prevention release mitigation programs and to determine their compliance with the GDC. EH-41 is currently conducting an analysis of this guidance document, and once it is completed and reviewed it will be made available to the DOE complex.

Section 112(r)(1) of the Clean Air Act, also known as the GDC, makes it clear that owners and operators of facilities having regulated and extremely hazardous substances are responsible for ensuring that their chemicals are managed in a safe manner. The GDC applies to any stationary source producing, processing, handling, or storing regulated substances or other extremely hazardous substances, regardless of the quantity on site. Extremely hazardous substances are any chemical listed in 40 CFR Part 68, or any other chemical which may as a result of short-term exposures because of releases to the air cause death, injury or property damage due to their toxicity, reactivity, flammability, volatility or corrosivity. Facilities have been required to comply with the GDC since November 1990.

Facilities that are subject to the GDC are responsible for, among other things:

- Knowing the hazards posed by the chemicals and assess the impacts of possible releases;
- Following codes, standards and other business practices to ensure the facility is properly constructed and maintained, and the chemical is managed safely; and
- Having a contingency planning process, which would involve community responders, if necessary, to aid in an adequate response in the event of an accident.

Questions concerning this memorandum should be directed to Lee Banicki of my staff ([leroy.banicki@eh.doe.gov](mailto:leroy.banicki@eh.doe.gov); 202-586-5193).

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